

Appl. No. 10/787,485

Reply to Notice of Non-Compliant Amendment of September 27, 2006

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REMARKS

The Notice of Non-Compliant Amendment dated September 27, 2006 indicates that the June 16, 2006 submission was not entered and not made of record.

This attached listing and version of the claims replace the claims filed in the previous response filed on February 17, 2006, which represents the last entered amendment.

Reconsideration of the present application is respectfully requested.

For the Examiner's benefit, the Remarks from the unentered June 16, 2006 Amendment, are reproduced below. The following comments are responsive to the March 21, 2006 Office Action based, in turn, on the claim set filed on February 17, 2006.

Claims 1, 3-15 and 17-24 are pending in the present application. Claims 1, 10 and 15 have been amended as set forth above. Claims 6 and 11 are canceled. Claims 25 and 26 are newly added. Reconsideration of this application is respectfully requested.

35 U.S.C. § 103(a) rejection

The Action rejected Claims 1-23 under 35 U.S.C. § 103(a) as being unpatentable over Peiter (EP 1202325) in view of FIG. 3 of Applicant's disclosed prior art (APA).

Claims 2, 6, 11 and 16 have been canceled without prejudice. Features of Claims 6 and 11 have been incorporated into Claims 1 and 10, respectively. Claim 1 has been amended to recite that:

a predetermined material stocker having at least one material transfer port to be shared by both the first and second transport subsystems, wherein the material transfer port has an elongated opening within a sidewall of the material stocker, and the elongated opening accommodates both the first material transport subsystem and the second material transport subsystem. (emphasis added).

Support of this amendment can be further found in, for example, paragraphs 20-22 and FIG. 4. No issue of patentability is raised.

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To establish a *prima facie* case of obviousness, three basic criteria must be met: (a) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (b) there must be a reasonable expectation of success; and (c) the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 706.02(j).

Applicant submits that Peiter and the Applicant's Prior Art (APA) fail to teach or suggest that the material transfer port has an elongated opening within a sidewall of the material stocker, and the elongated opening accommodates both the first material transport subsystem and the second material transport subsystem. It is clear that APA fails to teach or suggest the claimed feature, because, APA only shows that each transfer port has an opening for accommodating a respective material transport system as shown in Fig. 3.

The Action alleges that, "Peiter discloses a material transport port 10 having an elongated opening." The Applicant respectfully disagrees. The reference numeral 10 described in Peiter is in fact an interbay rail track (Para. [0027] and Fig. 2) and not a material transfer port, as recited in the claims. Neither the description nor the drawings of Peiter show a material transfer port having an opening to accommodate the first and second transport subsystems. Accordingly, Peiter fails to teach or suggest the claimed feature,

Furthermore, because the reference numeral 10 in Peiter is clearly identified as an interbay rail track, one of ordinary skill in the art would not have been motivated to modify the interbay rail track 10 to achieve a material transfer port recited in Claim 1 due to inherent differences between a rail track and a material transfer port. Therefore, Peiter fails to teach or suggest that the material transfer port has an elongated opening within a sidewall of the material stocker where the elongated opening accommodates both the first material transport subsystem and the second material transport subsystem.

Accordingly, one of ordinary skill in the art would not have been motivated by the combined teachings of Peiter and APA to achieve the feature recited in Claim 1. For at least these reasons, Claim 1 should be allowable over Peiter and APA under § 103(a). Claims 3-5 and 7-9 depend from Claim 1 and are, therefore, allowable for at least these reasons set forth above.

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Claims 10 and 15 have been amended to recite the "elongated opening" feature which is recited in Claim 1. Claims 10 and 15 thus are patentable for at least these reasons set forth in connection with Claim 1. Claims 12-14 and 17-23 depend from Claims 10 and 15, respectively, and are, therefore, allowable for at least these reasons.

Claim 24

Claim 24 has been added in the previous response. The Action neither rejected nor objected to Claim 24. Claim 24 thus is allowable. Further, Claim 24 depends from Claim 1 and should be, therefore, allowable for at least these reasons set forth in connection with Claim 1.

New Claims 25 and 26

Claims 25 and 26 are newly added to recite the features recited in the Claims 2 and '16, which were canceled in the previous response. No new matter is added.

Claims 25 and 26 now depend from Claims 1 and 15, respectively, and are, therefore, allowable over the art of record for at least these reasons.

In view of the foregoing amendments and remarks, Applicant submits that this application is in condition for allowance. Early notification to that effect is respectfully requested.

No fees are believed to be necessary. However, if the Examiner determines that any fees are required, please charge the fees to Deposit Account 04-1679. Applicants respectfully request that Application be forwarded for examination.

Respectfully submitted,

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Mark J. Marcelli, Reg. No. 36,593
Attorneys for Applicants

DUANE MORRIS LLP
101 West Broadway, Suite 900
San Diego, CA 92101
Telephone: (619) 744-2200
Facsimile: (619) 744-2201